

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
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Report Summary

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Ronald M. Sabraw, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665

DATE: April 17, 2000

SUBJECT: Wage Garnishment Forms (State Tax Liability) (revise Forms 982.5(11), 982.5(12), 982.5(13), 982.5(14), 982.5(15); adopt Forms 982.5(11S) and 982.5(14S)) (Action Required)

Issue Statement

The current wage garnishment forms relating to withholding for taxes need to be revised to reflect the appropriate code sections in their lower right-hand corners. All of the forms refer to Code of Civil Procedure section 723.076, which was repealed in 1983 and replaced by section 706.076. In addition, section 723.080, referred to on Form 982.5(11), and section 723.073, referred to on Form 982.5(15), were repealed in 1982 and replaced by section 706.051.

In addition, the inclusion of judgment debtors' social security numbers on the existing application (Form 982.5(11)) and temporary withholding order (Form 982.5(14)) impinge upon the debtors' privacy interests. Yet, these privacy interests need to be reconciled with the statutory requirement that the application and order provide, "if known, the social security number of the judgment debtor."

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2000:

1. Revise *Application for Earnings Withholding Order for Taxes* (Form 982.5(11)); *Earnings Withholding Order for Taxes* (Form 982.5(12)); *Notice of Hearing—Earnings Withholding Order for Taxes* (Form 982.5(13)); *Temporary Earnings Withholding Order for Taxes* (Form 982.5(14)); and *Claim of Exemption and Financial Declaration* (Form 982.5(15)) to correct outdated references to code sections; and

2. Adopt *Confidential Supplement to Application for Earnings Withholding Order for Taxes* (Form 982.5(11S)); and *Confidential Supplement to Temporary Earnings Order for Taxes* (Form 982.5(14S)) to allow social security numbers to be provided confidentially.

Rationale For Recommendation

To correct outdated references to code sections, the wage garnishment forms would be revised.

To reconcile judgment debtors' privacy interests with the requirement that social security numbers be provided, Forms 982.5(11) and 982.5(14) would be revised to delete the items for social security numbers on the first page of each form, and two new supplemental forms (Forms 982.5(11S) and 982.5(14S)) would be adopted. These supplemental forms would be used to provide judgment debtors' social security numbers confidentially to courts and employers. These supplemental forms would not be part of the public record.

Alternative Actions Considered

There is no reasonable alternative to revising the wage garnishment forms to state the correct code sections.

On the application and order forms, the items requesting social security numbers could have been left unchanged or the entire forms could have been made confidential. However, the committee concluded that the better approach would be to delete these items on the order and application, and to adopt supplements to the order and application, which would be used to provide social security numbers confidentially.

Comments From Interested Parties

The revised wage garnishment forms were circulated in the summer of 1998, but were not submitted to the council at that time. Eight of the ten commentators agreed with the revisions. In response to a comment objecting to the inclusion of social security numbers on Forms 982.5(11) and 982.5(14), the committee concluded that two supplemental confidential forms should be adopted.

On March 15, 2000, the Rules and Projects Committee reviewed the revised forms and recommended that the forms be submitted to the Judicial Council without being circulated a second time.

A chart summarizing the comments and the committee's responses is attached at pages 14–15.

Implementation Requirements And Costs

The courts will incur some costs in replacing the existing wage garnishment forms with the revised forms. In addition, because the courts will need to treat the two new supplemental forms confidentially, the courts will incur some additional administrative expenses.

Copies of the forms are attached at pages 4–13.

Comments for
Wage Garnishment — State Tax Liability Forms

| | Commentator | Position | Comment on Behalf of Group | Comments | Committee Response |
|----|---|-----------------|-----------------------------------|---|--|
| 1. | Jeanne Caughell Superior Court of Ventura County | A | | No comments submitted. | No response required. |
| 2. | Ronna Uruburu Assistant Court Administrator Long Beach Municipal Court | A | | No comments submitted. | No response required. |
| 3. | Lily Wright Inglewood Municipal Court | A | | No comments submitted. | No response required. |
| 4. | J. Ziegler Court Executive Officer South Orange Municipal Court | A | | No comments submitted. | No response required. |
| 5. | Arline Lisinski Superior Court of Yolo County | A | | No comments submitted. | No response required. |
| 6. | Kent D. Petersen Court Administrator San Diego Municipal Court | A | | No comments submitted. | No response required. |
| 7. | Frederick K. Ohlrich Los Angeles Municipal Court | A | | No comment submitted. | No response required. |
| 8. | Timothy Gee Superior Court of Los Angeles County | A | | No comment submitted. | No response required. |
| 9. | Amy Silva Director, Family Law/Probate Operations Superior Court of Orange County | AM | | Forms 982.5(11) and 982.5(14) include a place for the social security number. “Pursuant to U.S. Code, this information is not to be in public documents.” | The committee agreed that Forms 982.5(11) and 982.5(14) should be modified to delete the social security numbers and new supplemental forms should be adopted for the purpose of confidentially submitting social security |

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

| | Commentator | Position | Comment on Behalf of Group | Comments | Committee Response |
|-----|---|----------|----------------------------|--|--|
| | | | | <p>Recommends correcting form number on the lower left corner of each form to include the full rule number of the form.</p> <p>Recommends on form 982.5(13), removing the Attorney box in the upper left-hand corner, because it implies that the attorney is giving notice of the hearing.</p> | <p>numbers.</p> <p>Staff comments: Lower left corner of each Judicial Council form follows a standard format.</p> <p>Attorney box is on the existing form. It is on the form because the attorney for the state agency is given notice by the clerk's mailing.</p> |
| 10. | Robert E. Thomas Chair, Rules and Forms Committee Superior Court of Orange County | N | Y | <p>"The Claim of Exception is not filed with the court (Claim of Exemption is filed with levying officer, usually the Marshal's Office). The proposed forms will require two sets of procedures for Claim of Exemptions with an increased workload for counter staff (setting and noticing hearing). If there is no existing judgment in Superior Court, a new civil case will first have to be opened with a certified copy of judgment from original jurisdiction, case number assigned, etc."</p> | <p>The procedure reflected on the form is the procedure contemplated in the statute.</p> |